CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
STEPHEN M. HAASE, AICP, DIRECTOR

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: HP Warehouse Site – 915 Story Road

PROJECT FILE NUMBER: GP03-07-10 & PDC04-045

PROJECT DESCRIPTION: The project consists of a General Plan Amendment to change the General Plan Land Use/ Transportation Diagram designation for the site from Industrial Park to General Commercial, and a Planned Development Rezoning from IP Industrial Park District to A(PD) Planned Development District and subsequent Planned Development Permit(s) and Tentative Map(s) to allow up to 305,500 square feet of commercial uses, private circulation and private open space on 19.6 gross acres.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The project site is located on the north side of Story Road, approximately 750 feet west of McLaughlin Avenue (915 Story Road) in the City of San Jose, within the County of Santa Clara, California; APN 472-11-063 & 065

COUNCIL DISTRICT: 7

NAME OF APPLICANT: 915 Story Road Investments, LLC

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

10123 North Wolf Road, Suite 2030
Cupertino, CA 95014
(408) 723-2177
Contact: Mr. Jerry Strangis

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

Policy-Level Mitigation Measures

1. Earthquake Policy 1. The City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.
2. Earthquake Policy 3. The City should only approve new development in areas of identified seismic hazard if such hazard can be appropriately mitigated.

3. Earthquake Policy 5. The City should continue to require geotechnical studies for development proposals; such studies should determine the actual extent of seismic hazards, optimum location for structures, the advisability of special structural requirements, and the feasibility and desirability of a proposed facility in a specified location.

4. Fire Hazards Policy 5. Anticipated fire response times and fire flows should be taken into consideration as a part of the Development Review process.

5. Flooding Policy 7. The City should require new urban development to provide adequate flood control retention facilities.

6. Hazardous Materials Policy 1. The City should require proper storage and disposal of hazardous materials to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal.

7. Hazardous Materials Policy 2. The City should support State and Federal legislation which strengthen safety requirements for the transportation of hazardous materials.

8. Hazardous Materials Policy 3. The City should incorporate soil and groundwater contamination analysis within the environmental review process for development proposals. When contamination is present on a site, the City should report this information to the appropriate agencies that regulate the cleanup of toxic contamination.

9. Historic, Archaeological, and Cultural Resources Policy 9. Recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

10. Level of Service Goal 2. Achieve the following level of service for these City services:

    - For transportation, level of service "D".
    - For storm drainage, to minimize flooding on public streets and to minimize property damage from storm water.

11. Level of Service Policy 2. Capital and facility needs generated by new development should be financed by new development. The existing community should not be burdened by increased taxes or by lowered service levels to accommodate the needs created by new growth. The City Council may provide a system whereby funds for capital and facility needs may be advanced and later repaid by the affected property owners.

12. Level of Service Policy 5. The minimum overall performance of City streets during peak travel periods should be level of service "D".
    - In recognition of the City's Smart Growth strategies and interest in creating and maintaining a livable community, San Jose is planning a balanced, multi-modal transportation system. Livable streets that accommodate vehicular as well as appropriate pedestrian, bicycle, and transit facilities are an important component of this transportation system.
    - Development proposals should be reviewed for their measurable impacts on the level of service and should be required to provide appropriate mitigation measures if they have the potential to reduce the level of service to "E" or worse. These mitigation measures typically involve street improvements. When the mitigation for vehicular traffic compromises community livability by removing street trees, reducing front yards, or creating other neighborhood impacts, then improvements to transit, bicycle, or pedestrian facilities may be considered in combination with more appropriate street improvements to meet the level of service standard.
    - To strengthen the neighborhood preservation strategy and objectives of the Plan, the City Council may adopt a Council Policy which establishes alternative mitigation measures, including improvements to transit, bicycle, and/or pedestrian facilities, for projects whose required traffic mitigation would result in a unacceptable impact on an affected neighborhood or City street.
13. Level of Service Policy 12. New projects should be designed to minimize potential damage due to storm waters and flooding to the site and other properties.

14. Level of Service Policy 16. Utilize the following Citywide level of service measures as benchmarks to be used to evaluate major General Plan land use and policy changes, such as expansions of the Urban Service Area or land use changes from non-residential to residential:

    - For fire protection, a 4-minute average response time to all calls.
    - For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, achieve a response time of eleven minutes or less for 60 percent of all Priority 2 calls

15. Level of Service Policy 17. In reviewing major land use or policy changes, the City should consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels.

16. Level of Service Policy 18. Fire service facilities should be located so that essential services can be most efficiently provided.

17. Noise Policy 1. The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San José International Airport the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.

18. Noise Policy 9. Construction operations should use available noise suppression devices and techniques.

19. Noise Policy 12. Noise studies should be required for land use proposals where known or suspected peak event noise sources occur which may impact adjacent existing or planned land uses.

20. Soils and Geology Conditions Policy 1. The City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion and sedimentation in order to determine if these hazards can be adequately mitigated.

21. Soils and Geology Conditions Policy 3. In areas susceptible to erosion, appropriate control measures should be required in conjunction with proposed development.

22. Soils and Geology Conditions Policy 6. Development in areas subject to soils and geologic hazards should incorporate adequate mitigation measures.

23. Soils and Geology Conditions Policy 8. Development proposed within areas of potential geological hazards should not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties.

24. Storm Drainage and Flood Control Policy 12. New projects should be designed to minimize potential damage due to storm waters and flooding to the site and other properties.

25. Transportation Policy 7. The traffic impacts on regional transportation facilities should be taken into consideration when reviewing major General Plan Land Use Diagram amendments.

26. Transportation Policy 28. The City should promote participation and implementation of appropriate Transportation Demand Management measures such as carpooling and vanpooling, preferential parking and staggered work hours/flextime, as well as bicycling and walking, by all employers.

27. Transportation Policy 29. The City should continue its participation in interjurisdictional approaches, such as the Santa Clara County Congestion Management Agency, to develop and implement appropriate techniques to improve the regional transportation system.

28. Transportation Policy 33. Adequate off-street parking should be required in conjunction with all future developments. The adequacy and appropriateness of parking requirements in the Zoning Code should be periodically re-evaluated.

29. Urban Forest Policy 2. Development projects should include the preservation of ordinance-sized, and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance sized or other significant trees should be avoided through appropriate design measures and

construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement. In support of these policies the City should:

- Continue to implement the Heritage Tree program and the Tree Removal Ordinance;
- Consider the adoption of Tree Protection Standards and Tree Removal Mitigation Guidelines.

30. Urban Forest Policy 3. The City encourages the maintenance of mature trees on public and private property as an integral part of the urban forest. Prior to allowing the removal of any mature tree, all reasonable measures which can effectively preserve the tree should be pursued.

31. Urban Forest Policy 5. The City should encourage the selection of trees appropriate for a particular urban site. Tree placement should consider energy saving values, nearby power lines, and root characteristics.

32. Urban Forest Policy 6. Trees used for new plantings in urban areas should be selected primarily from species with low water requirements.

33. Urban Design Goal: Require the highest standards of architectural and site design, and encourage the use of "Green Building" techniques for all development projects, both public and private.

34. Urban Design Policy 1. The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.

35. Urban Design Policy 2. Private development should include adequate landscaped areas. Landscaped areas should utilize water efficient plant materials and irrigation systems. Energy conservation techniques such as vegetative cooling and wind shielding should also be utilized. All landscaped areas should include provision for ongoing landscape maintenance.

36. Urban Design Policy 7. The City should require the undergrounding of distribution utility lines serving new development sites as well as proposed redevelopment sites. The City should also encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.

37. Urban Design Policy 18. To the extent feasible, sound attenuation for development along City streets should be accomplished through the use of landscaping, setback and building design rather than the use of sound attenuation walls. Where sound attenuation walls are deemed necessary, landscaping and an aesthetically pleasing design shall be used to minimize visual impact.

38. Urban Design Policy 22. Design guidelines adopted by the City Council should be followed in the design of development projects.

39. Urban Design Policy 30. To the maximum extent feasible, all new commercial and industrial buildings should be designed for adaptability to other uses in the future.

40. Urban Design Policy 33. All developments should provide pedestrian friendly design features including, but not limited to, pedestrian pathways connecting public streets to building entrances and other features of the site. In addition, street trees and appropriate pedestrian scale lighting should be installed in developments within Pedestrian Priority Areas. Non-residential development should include street shade, pedestrian-oriented signage, and building entrances along the street frontage. Within the public right-of-way, pedestrian-oriented signage could include "trailblazer" signs.

41. Urban Design Policy 34. To create a more pleasing pedestrian environment, building frontages should include design elements with a human scale, varied and articulated facades, and entries oriented to public sidewalks or pedestrian pathways. Windows and/or entries should be provided along sidewalks and pathways.

42. Water Resource Policy 12. For all new discretionary development permits for projects incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City

should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.

Project-Level Mitigation Measures

1. The City of San José has established regulations for removal of landscape trees at least 56 inches in circumference measured two feet above grade. The proposed project will obtain a permit for the removal of ordinance-sized trees and provide for the replacement of removed trees in conformance with the City of San José Tree Ordinance. It should be noted that per City policy, plantings for impacts to riparian habitat do not count towards the mitigation for removal of trees outside of the riparian area. There are currently 286 trees on the site, ranging from 12 inches to 113 inches in circumference., 47 of which are ordinance-sized trees. The exact number of tree to be removed will be determined prior to action on the Planned Development Rezoning.
   All non-orchard trees that are to be removed shall be replaced at the following ratios:

   - Each tree less than 12" in diameter to be removed = one 15 gallon tree
   - Each tree 12" to 18" diameter to be removed = two 24" box trees
   - Trees greater that 18" diameter shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree greater than 18" diameter to be removed = four 24" box trees

The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. In the event the developed portion of the site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of Planning, Building and Code Enforcement.

- A donation of $300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-street planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

The following tree protection measures will also be included in the project in order to protect trees to be retained during construction:

- Pre-construction treatments
  1. The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
  2. Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed.
  3. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.
- During construction
  1. No grading, construction, demolition or other work shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the consulting arborist.
  2. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
  3. Supplemental irrigation shall be applied as determined by the consulting arborist.
  4. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
  5. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.
  6. Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel.

7. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.

2. The level of service impact at the intersection of Story Road and McLaughlin Avenue could be mitigated with the addition of a separate eastbound right-turn lane on Story Road. This improvement would require the acquisition of right-of-way along the south side of Story Road, as well as the relocation of utilities and signal poles. This mitigation measure would improve the intersection level of service from LOS E to LOS D.

3. The level of service impact at the intersection of Lucretia Avenue and Story Road could be mitigated by changing the lane configuration of the north approach from separate left, through and right-turn lanes, to a double left-turn lane and a shared through/right-turn lane. This would require changing the signal control on the north and south legs of the intersection from permitted to protected left turns. The protected left turns (8-phase signal) would provide the highest level of pedestrian safety. This mitigation would improve the intersection level of service from LOS E to LOS D.

4. Prior to any demolition of the existing building on the site or any construction activity, the project developer shall conduct sampling to assess if asbestos is contained in the construction materials of the building. The California Health and Safety Code requires owners of structures with Asbestos Containing Materials (ACM) to notify tenants and employees that the building has ACM. A report of the findings of the sampling shall be submitted, to the satisfaction of the Building Official, prior to issuance of any demolition permits for the building. In addition, the project will be required to obtain a Demolition Permit from the City's Building Division, prior to demolishing the existing building on the site. Before a Demolition Permit can be issued by the City, the developer must report the demolition to the Bay Area Air Quality Management District (BAAQMD), and obtain a letter from them. The BAAQMD is the regulating agency for the removal of ACM.

5. Prior to any demolition of the existing building on the site or any construction activity, the project developer shall remove and properly dispose of the existing wastewater treatment system and 55-gallon drums currently located on the property. The wastewater treatment area shall be properly decontaminated after the removal of the system. Prior to the issuance of the Planned Development permit, the decontamination plan shall be reviewed and approved by the Environmental Program Manager, City of San Jose, Environmental Services Division.

6. Prior to any demolition of the existing building on the site or any construction activity, the hydraulic hoists previously installed on the property shall be removed and the soil beneath them sampled for contamination. A report of the findings of the sampling shall be submitted, to the satisfaction of the Building Official, prior to issuance of any demolition permits for the building.

7. Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.

8. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.

9. The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay.* Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities.

10. Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:

    - The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities;
    - The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).

9. The project applicant shall comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation and with the City of San Jose Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:
    - Restriction of grading to the dry season (April 15 through October 15);
    - Utilize on-site sediment control BMPs to retain sediment on the project site;
    - Utilize stabilized construction entrances and/or wash racks;
    - Implement damp street sweeping;
    - Provide temporary cover of disturbed surfaces to help control erosion during construction;
    - Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

10. The following controls shall be implemented during all construction phases of the project:
    - Water all active construction sites at least twice daily;
    - Cover all trucks hauling soil, sand and other loose materials *or* require all trucks to maintain at least two feet of freeboard;
    - Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
    - Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
    - Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
    - Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
    - Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.
    - Limit traffic speeds on unpaved roads to 15 mph.
    - Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
    - Replant vegetation in disturbed areas as quickly as possible.

11. Raptors. If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor-nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the

satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading or building permit

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **November 29, 2004**, any person may:

(1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

(2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

(3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a $100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: _____

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Deputy

Adopted on: _____

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MND/JAC 12/29/03